

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

FELISHATAY ALVARADO	:	: CIVIL ACTION
	:	
v.	:	: NO. 22-3763
	:	
CITY OF PHILADELPHIA, <i>et al.</i>	:	

ORDER

AND NOW, this 27th day of February 2024, upon considering defendants’ motion for summary judgment (DI 28), plaintiff’s opposition (DI 29), defendants’ reply (DI 30), plaintiff’s sur-reply (DI 35), defendants’ responsive letter (DI 37), following oral argument held on January 3, 2024, and for reasons in the accompanying memorandum, it is **ORDERED**:

1. Defendants’ motion for summary judgment (DI 28) is **GRANTED in part** and **DENIED in part**. Ms. Alvarado’s Fourth Amendment claim against individual defendants may proceed to trial based on their mistaken entry into her home, their failure to knock and announce their presence, and her detention thereafter. Her claim against the City may proceed to trial as well. But her claim may not proceed against individual defendants or the City on the theory that Akuma’s killing violated the Fourth Amendment. And finally, defendant Officers Ashford, Scott, Fitzpatrik, Rivera, Quintana, Riotto, and Cerutti are dismissed by agreement of the parties;

2. All John Doe or other fictitious defendants are summarily **DISMISSED** without prejudice from this matter because Ms. Alvarado has not identified them and discovery has closed. *See Juan House v. Fisher*, 2016 WL 538648, at *1 n.4 (E.D. Pa. Feb. 11, 2016) (“It is well-settled that the use of John/Jane Doe defendants absent compelling reasons will not suffice and the district court may dismiss such defendants if plaintiff, after being granted a reasonable

period of discovery, fails to identify the defendants.”) (citing *Scheetz v. Morning Call, Inc.*, 130 F.R.D. 34 (E.D. Pa. 1990)).

3. We will hold a case management videoconference over Microsoft Teams on **March 4, 2024 at 10:00A.M.** and will send a videoconference link by e-mail to all counsel of record. All parties shall be prepared to discuss setting a date certain for trial.



MURPHY, J.